

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In The Matter of )  
 )  
THE 2006 BIENNIAL REVIEW OF ) Docket No. 06-  
152  
TELECOMMUNICATIONS REGULATIONS )  
 )

September 15, 2006

**Comments of the American Association of People with Disabilities to the  
Consumer & Governmental Affairs Bureau (CGB)**

AAPD is pleased at the opportunity to provide comments and recommendations in regard to operations or activities of any provider of telecommunications service, and to provide advice in regard to determining whether any such regulation is no longer necessary in the public interest. Due to the short window of time permitted for comments and reply comments, AAPD offers these comments as a response to the August 10, 2006 Public Notice (FCC 06-115) and to provide input on matters that are typically not specifically raised in other Notices. AAPD takes seriously the Commission's authority to repeal or modify any regulations that it finds are no longer in the public interest.

The American Association of People with Disabilities (AAPD) is the largest national nonprofit cross-disability member organization in the United States, dedicated to ensuring economic self-sufficiency and political empowerment for the more than 51 million Americans with disabilities. AAPD works in coalition with other disability organizations for the full implementation and enforcement of disability nondiscrimination laws, particularly the Americans with Disabilities Act (ADA) of 1990 and the Rehabilitation Act of 1973, as well as other statutes, such as the disability accessibility mandates in the Communications Act.

Specifically, AAPD is interested in retention and modification of the following regulations:

**1. Regulations in Part 1 – Practice and Procedure – Sections 1.716 through 1.719, rules for the filing of informal complaints.**

AAPD supports the intent and purposes of these regulations. We believe, however, that the Bureau should amend these regulations to address the informal and formal complaints procedure for the filing of captioning complaints. While the regulation for the filing of captioning complaints is found at 47 CFR § 79.1(g), there is confusion among consumers as to which FCC Bureau will handle the consumer complaints about closed captioning, what process will be used and how review for enforcement may occur. AAPD notes that the procedure at Part 79.1(g) is neither described as a formal or informal complaint procedure. The requirement under part 79.1(g) is for consumers to first complain to the video programming distributor and then, if there is no response to the consumer or a dispute remains, the consumer may send his or her complaint to the Commission. The consumer is then expected to submit to the Commission “evidence” that demonstrates the alleged violation, which also must include copies of all written complaint material.

AAPD understands that as a matter of practice, the Commission permits the Bureau (CGB) to handle informal complaints; AAPD therefore recommends that the Bureau modify its informal complaint regulations to allow for an informal complaints handling process for informal complaints involved captioning. This should be a process that does not require the consumer to contact first the video programming distributor. We further recommend that it should include availability of filing of a form, similar to the online form, Form 475, found for carrier and carrier-related informal complaints. The Commission’s regulations for informal complaints about captioning should parallel the type of informal complaints handling process found for carrier complaints in the regulations in Part 1 for purposes of consistency in regulation and may help meet the non-discrimination requirements under Section 504 of the Rehabilitation Act for non-discrimination in programs and services by the agency.

AAPD supports retention of the consumer complaint process described in Part 79.1(g) in addition to devising a more informal captioning complaint process as recommended above.

In support of our recommendation, AAPD notes that the description of the process for filing complaints under 47 CFR Part 79.2 (c), that is, complaints alleging lack of accessibility of programming providing emergency information, is far simpler in process. This process does not require consumers to first complain to video programming distributors. AAPD believes the record for how this process works supports a similar process for allegations under Part 79.1(g) so that consumers are not required to try and

figure out which process pertains to their concern, which from their viewpoint, is a complaint about lack of accessibility in video programming and may or may not involve regulations in part 79.1 or in part 79.2. Consumers with disabilities should not be required to first figure out under which regulation their complaint falls for the purpose of filing an informal complaint appropriately.

Furthermore, the regulations for complaints under both Parts 79.1 and 79.2 should clarify which Bureau handles these complaints and what the procedure is for review for possible enforcement. Parts 79.1 and 79.2 lack the clarity found in Part 1.717; Sections 1.717 and 1.718 assert that consumers have the option to file a formal complaint if unsatisfied with a response to their filing of an informal complaint. AAPD contends that consumers filing complaints under both Parts 79.1(g) and Part 79.2(c) are entitled to the same clarity of regulations about enforcement options as all other consumers filing informal complaints at the Commission through CGB's informal complaint process. We therefore recommend appropriate modifications within Part 1 that address this concern.

## **2. Regulations in Part 6 – Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; and Part 7 – Access to Voicemail and Interactive Menu Services and Equipment by People with Disabilities**

AAPD supports retention of these regulations. We note that the informal complaint procedures found in Sections 6.17 and 7.17 permit the filing of complaints by any reasonable means, such as letter, fax, and telephone (voice/TRS/TTY). This was intended to permit persons with disabilities who use alternative formats to be able to access the FCC's informal complaint process the same way that persons without disabilities can easily access the FCC.

AAPD notes that there are some consumers with vision disabilities or who are blind who have contacted AAPD to report to that when they telephone in their complaints to the FCC, they either are “bounced around” from person to person via the internal phone system, or do not receive a call back, or their complaint details are not taken up over the phone with the same expediency as filing of Form 475, the on-line informal complaint form, allows. For these individuals with vision disabilities, some who are without computers and Internet access or who may not have accessibility equipment to access online forms, the above regulation becomes meaningless. AAPD recommends the Bureau establish an internal procedure that clearly makes this regulation operative within the agency. For example, the agency can employ a dedicated

phone answering service or other similar means for informal and formal complaints that come in by telephone by persons with vision disability, so that complaints are taken up promptly and fully at first contact with the agency. AAPD notes that such a procedure would comport with the agency's requirement to develop guidelines, information, and procedures to ensure that the Commission is accessible to individuals with disabilities under Section 504 of the Rehabilitation Act, and would ensure that Commission personnel are effective in their efforts to provide accessibility.

### **3. Part 68 – Connection of Terminal Equipment to the Telephone Network – specifically Part 68.4, Hearing Aid Compatible Phones**

AAPD supports retention of the regulations for hearing aid compatibility of phones.<sup>1</sup> However, we believe that a modification is necessary. At Sections 68.418 (a) and (b) there is a requirement for designation of agents for service involving designation to the Administrative Council for Terminal Attachment (ACTA). AAPD believes this regulation is mystifying to consumers who are unaware of ACTA and that it must make agent of service information available to consumers. AAPD notes that consumers with vision disabilities using the ACTA web site to find out about an agent for service encounter an inaccessible web site and for consumers without vision disabilities, they encounter difficulties navigating the menus to find a product, the company or manufacturer and the agency of service who may, or may not, be located overseas (see at <http://www.part68.org>). AAPD does not think consumers should be pointed to an inaccessible and hard-to-navigate privately-sponsored web site and recommends revision of the regulation to reflect reality; namely, that many agents of service for hearing aid compatibility complaints are typically the same persons as are the Section 255 designated agents; or establish that the registering of Part 68 agents of service for hearing aid compatibility will be listed on the Section 255 FCC web site (as found at [http://www.fcc.gov/cgb/dro/section255\\_manu.html](http://www.fcc.gov/cgb/dro/section255_manu.html)).

AAPD also recommends that the Bureau issue routinely Public Notices about the designated agents for service, required at Part 68.418, so that they can be

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<sup>1</sup> AAPD reminds the bureau that when the Commission significantly reduced its oversight of telephone equipment in November of 2000, it retained its provisions that imposed mandates for hearing aid compatibility and volume control, explaining that its retention of these rules were needed to “ensure that individuals with hearing and speech disabilities have access to telecommunications services in a manner functionally equivalent to someone without such disabilities.” See *In the Matter of 2000 Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations, Report and Order*, CC Docket No. 99-216, FCC 00-400 (November 9, 2000) at ¶66.

listed on the FCC web site for easy access by consumers. The Bureau routinely issues such notices for Parts 6 and 7 designated agents of service and the same public and easily available information should occur for Part 68 agents of service.

AAPD appreciates this opportunity to support the record on these topics that are of significance to the millions of persons with disabilities in the U.S. who look to their federal government to ensure that regulations are working in their public interest.

Sincerely,

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